

REMARKS

The Office Action dated March 14, 2008 has been received and considered. In this response, claims 51, 65-80, and 84 have been amended. Support for the amendments and new claims may be found in the specification and drawings as originally filed. As described below, these amendments are to correct antecedent issues or are minor amendments that are consistent with the Office's interpretation and that do not change the scope of the claims and do not require additional search or consideration by the Office. Entry of these amendments therefore is proper. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

Non-Statutory Subject Matter Rejection of Claims 65-96

At pages 2 and 3 of the Office Action, claims 65-96 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter and at page 3 of the Office Action, claims 65-80 are rejected as failing to provide antecedent basis for the claimed subject matter. These rejections are respectfully traversed with amendment.

As best understood, the Office objects to the recitation of "computer readable medium in claims 65-80 because (1) the term "computer readable medium" has no express direct antecedent in the specification and (2) the specification makes reference to a "carrier wave," which the Office believes to be included in the recited "computer readable medium." It is noted that the specification recites:

One implementation of the invention is as sets of computer readable instructions resident in the random access memory of one or more processing systems configured generally as described in FIGS. 1-4. Until required by the processing system, the set of instructions may be stored in another computer readable memory, for example, in a hard disk drive or in a removable memory such as an optical disk for eventual use in a CD drive or DVD drive or a floppy disk for eventual use in a floppy disk drive.

Present Application, p. 10, line 27 to p. 11, line 3 (emphasis added).

As there is clear antecedent support for the term "computer readable memory" in the specification and as a "memory" clearly does not encompass a carrier wave, claims 65-80 have

been amended to recite “a computer readable **memory**,” rather than a “computer readable **medium**.” to address the Office’s concerns. It is respectfully submitted that these amendments do not materially alter the scope of the claims and are consistent with the Office’s interpretation of the claimed subject matter, and thus do not require additional search or consideration by the Office. Entry thereof and withdrawal of the § 101 rejection of claims 65-80 therefore is respectfully requested.

With respect to claims 81-95, it appears the Office objects to these claims in that they recite “means for” features and the Office notes that the specification teaches that “the video decoder/renderer 420 [is] performed via software application.” *Office Action*, p. 3. As best understood, it appears that the Office is concerned that the claimed “means for” features could be implemented merely as software. However, it will be appreciated that software, by itself, is merely an abstract representation of a set of instructions to be executed by a processing system and thus software, by itself, is not a “means for” doing anything. Rather, it is the software and the processing system which executes the software that together constitute the “means,” and thus a software-based implementation of the recited “means for” in claim 81 and its dependents properly would necessarily include both the “software” and the processing system that executes the “software” to achieve the recited function. *See, e.g., Present Application*, p. 10, line 27 to p. 11, line 3. Thus, as the combination of “software” and the processing system that executes the “software” is patentable subject matter under 35 U.S.C. § 101, claims 80-95 are directed solely to statutory subject matter. Reconsideration and withdrawal of the § 101 rejection of claims 81-95 therefore is respectfully requested.

Obviousness Rejections of Claims 49-58

At page 3 of the Office Action, claims 49-58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Banks (U.S. Patent No. 6,139,197). This rejection is respectfully traversed.

Claim 49 recites the features of “determining whether a transmission of a data stream having a plurality of multimedia channels is expected to meet a predetermined criteria” and “compressing at least one of the multimedia channels in the data stream to generate a first compressed data stream when the transmission of the data stream is not expected to meet the

predetermined criteria.” As discussed at page 14 of the Response filed January 22, 2007 and as discussed at page 4 of the Brief in Support of the Pre-Appeal Request for Review filed March 20, 2007, Banks fails to disclose or even suggest a data stream having a plurality of multimedia channels, much less determining that such a data stream meets a predetermined criteria, and if not, compressing at least one of the plurality multimedia channels to generate a compressed data stream as provided by claim 49. In particular, Banks discloses the transmission of only a single multimedia channel (i.e., “video file”) and no contemplation of the transmission a data stream having a plurality of multimedia channels is contemplated anywhere in the disclosure of Banks. As Banks fails to disclose or suggest the transmission of such a stream, Banks necessarily fails to disclose or suggest compressing at least one or more one or more of a plurality of multimedia channels of such a stream in any manner, much less “when the transmission of the data stream is not expected to meet the predetermined criteria” as recited by claim 49. The Office’s rationale at page 4 of the Office Action with respect to Banks disclosing “pre-compressing the streams” and thus allegedly “determining that the transmission of the stream will not meet a predetermined criteria” is of no import as the “stream” of Banks to which the Office refers is merely a single-multimedia channel stream, rather than the recited “data stream comprising a plurality of multimedia channels” of claim 49. Banks therefore fails to disclose or suggest each and every feature of claim 49, and thus fails to disclose or suggest each and every feature of claims 50-58 at least by virtue of their dependency from claim 49. Moreover, these dependent claims recite additional novel features.

To illustrate, dependent claim 51 recites the features “compressing at least one multimedia channel of the first compressed data stream to generate a second compressed data stream when the transmission of the first compressed data stream is not expected to meet the predetermined criteria.”¹ The Office rejects claim 51 under the rationale that “Banks discloses ‘compressing at least one channel of *the* stream to generate a second compressed stream . . . ‘ (Banks: column 6, lines 1-25, wherein the second stream is the stream from the less-compressed video file).” *Office Action*, p. 4 (emphasis added). The Applicant respectfully disagrees. Dependent claim 51 provides for the compression of at least one multimedia channel of the first compressed data stream, which independent claim 49 provides is generated from the

compression of at least one multimedia channel of another data stream. Banks fails to disclose or suggest the compression of a multimedia channel from a stream that has already been compressed by compressing one or more of its plurality of data streams.

As another example, dependent claim 53 recites the features of “wherein the predetermined criteria includes a real-time transmission of *each* of the multimedia channels [of the plurality of multimedia channels of the data stream].” Dependent claim 54 recites the features of “wherein the predetermined criteria includes a transmission of the data stream within a predetermined bandwidth.” The Office asserts that these features are found in the passage of Banks at col. 6, lines 1-5. *Office Action*, p. 5. This relied-upon passage states

Specifically, server 132 initially determines which of video files 134 and 140 to transmit to client 110 based on a specified frame delivery rate and the bandwidth between server 132 and client 110. The lower the bandwidth, the higher the compression ratio of the video file selected by video transmitter and the lower the quality of the video image 114 displayed on the video display 112.

Banks, col. 6, lines 2-8.

This passage merely provides that the server 132 selects between either the video file 134 or the video file 140 for transmission from the server 132 to the client 110 based on the “specified frame delivery rate and the bandwidth between server 132 and client 110.” However, Banks does not disclose or suggest that either the video file 134 or the video file 140 has a plurality of multimedia channels, and thus the selection between the video file 134 and the video file 140 based on the bandwidth/frame delivery rate does not equate to the compression of at least one multimedia channel of a data stream having a plurality of multimedia channels based on a real-time transmission of each of the multimedia channels (as provided by claim 53) or based on a transmission of the data stream [having the plurality of multimedia channels] within a predetermined bandwidth.

With respect to the rejection of claims 47 and 58, the Office provides Official Notice that these claimed features would have been obvious. *See Office Action*, p. 5. The Applicant disagrees and submits that no technical line of reasoning has been provided in support of this

¹ Note that claim 51 was amended to correct an antecedent informality and this amendment does not require additional search or consideration by the Office.

assertion and the Office has failed to demonstrate that the facts asserted to be well known are capable of instant and unquestionable demonstration as being well-known and thus the Office's reliance on Official Notice without documentary support is improper. *See MPEP* § 2144.03. The Applicant therefore respectfully requests that the Office provide a reference in support of this assertion of Official Notice in accordance with MPEP § 2144.03.

In view of the foregoing, reconsideration and withdrawal of the obviousness rejection of claim 49-58 is respectfully requested.

Obviousness Rejections of Claims 59-96

At page 5 of the Office Action, claims 59-96 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Banks in view of Putzolu (U.S. Patent No. 6,584,509). This rejection is respectfully traversed.

Claims 59-64 depend from independent claim 49. The Office bases its rejection of these claims on the same rationale as applied by the Office with respect to claim 49 (as described above, while determining that “claims 59-60 differ from claim 49 in that claims 59-60 further require using a round-robin mode of selection,” for which the Office points to Putzolu. As discussed above, Banks fails to disclose or suggest transmission of a data stream having a plurality of multimedia channels and thus fails to disclose or suggest the features of claim 49 related to such a data stream. Putzolu fails to compensate for the deficiencies of Banks with respect to claim 49. Thus, the proposed combination of Banks and Putzolu fails to disclose or suggest each and every feature of claims 59-64 at least by virtue of their dependency from claim 49. Moreover, because Banks fails to disclose or suggest a data stream having a plurality of multimedia streams, one of ordinary skill in the art would have no need for the “round robin scheme” allegedly taught by Putzolu. Thus, one of ordinary skill in the art would not find it obvious to combine Banks and Putzolu as proposed by the Office.

Independent claims 65 and 80 recite similar features to claim 49 in the context of a computer readable memory and a system, respectively, and thus the combination of Banks and Putzolu fails to disclose or suggest each and every feature recited by claim 65 and its dependent claims 66-80 and each and every feature recited by claim 80 and its dependent claims 81-96 for

at least the same reasons provided above with respect to claim 49. Moreover, the dependent claims recite additional novel features.

To illustrate, dependent claims 68 and 84 recite features similar to those recited by dependent claim 51, dependent claims 70 and 86 recite features similar to those recited by dependent claim 53, and dependent claims 71 and 87 recite features similar to those recited by dependent claim 54 and thus are not disclosed or suggested by Banks (or Putzolu) for at least the reasons described above.

In view of the foregoing, reconsideration and withdrawal of the obviousness rejection of claims 59-96 is respectfully requested.

Conclusion

The Applicant respectfully submits that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Applicant believes no additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-1835.

Respectfully submitted,

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